

ZONING BOARD OF APPEALS
MEETING MINUTES

April 8, 2008

4:00 P.M.

CALL TO ORDER: Mr. John Stetler called meeting to order at 4:00 p.m.

ATTENDANCE:

Members Present: Deland Davis, Mike Fatt, Gentry Hammons, Jim Moreno and John Stetler

Members Excused: Greg Dunn, and Carlyle Sims

Staff Present: Michael Buckley, Dir. Planning & Comm. Devel.; and Leona Parrish, Admin. Assistant

ADDITIONS OR DELETIONS TO THE AGENDA:

Motion made by Mr. Jim Moreno to have Mr. John Stetler Chair the meeting today as the Chairperson and Vice Chairperson are excused; supported by Mr. Gentry Hammons; all in favor, none opposed.

OLD BUSINESS: None

NEW BUSINESS:

Mr. John Stetler explained the process of the meeting for the Zoning Board of Appeals, noting the staff report is read then they hold a public hearing where the appellant as well as anyone else may speak and share any material they might have in support. He will then ask anyone to come forward that wishes to speak against the issue. If there are no other comments he will then close the public hearing, a motion will be made and the board will then discuss and vote. After the vote, if it is not in agreement with the petitioner, they may appeal to the Circuit Court.

Mr. John Stetler stated they would move appeal # Z-03-08 up on the agenda before #Z-02-08 because of the incorrect address submitted for appeal #Z-03-08, the Zoning Board will only be taking public comments for this appeal at today's meeting. The neighboring property owners will need to be notified and article published regarding this variance request and then the board will deliberate on this appeal at the next regularly scheduled meeting.

Appeal #Z -03- 08: Mr. Michael Buckley stated this is a variance request from Mr. Dan Rippinger on behalf of Summit Pointe, requesting to allow a 8-10 ft. height chain-link fence between their two properties at 10 Kulp Court. It was noted that the petition was submitted with the incorrect address and according to the State Law and City Ordinance it would need to be re-noticed and then be presented at the next Zoning Board Meeting for a decision regarding 10 Kulp Court.

Mr. John Stetler stated that it appears that they have received documentation from the Battle Creek Police Department regarding the illegal activity in this area, and that the Police Department noted it would be of help. (This document was handed-out at the meeting)

Mr. Dan Rippinger, Facilities Director for Summit Pointe came forward to speak and apologized for the error in addresses. He stated they own the two properties at 248 & 252 Garfield and 10 Kulp Ct., stated the purpose is to prevent drug abuse and illegal activity, and by raising the fence it would eliminate the passing over and through the current 6 ft. fence.

Dr. Frank Lanuti, 19300 East Avenue N. stated he and his wife are present to speak in opposition of this variance request. Stated they own property at 202 & 216 North Avenue for over 30 years and have made improvements, if this variance were approved it would make it difficult to allow him to rent his properties and would look like a prison fence. Said that if it is to prevent drugs, they need to get rid of those tenants and should check for references with the Renters Association. He said the fence height needs to be kept at what the code allows, that a 10 ft. fence should not be allowed in a residential area. He stated that he and his wife were both opposed to this variance.

Mr. John Stetler asked if there were any others here to speak for or against this variance, seeing none he called this public hearing to a close and stated this variance would be discussed at their next meeting.

Appeal #Z -02- 08:

Mr. Buckley read the report regarding 175 College Street submitted by Site Designs Solutions on behalf of Medical Regional Laboratories to allow use of the front-yard setback for parking and to eliminate 10 ft. wide buffer and screening between parking and residential use to the West. He explained the site plan attached and that the issue is the parking encroaching and the required buffer to the West of the property. Stated the brick wall and fence should be enough of a buffer and that the setback was the main issue.

Mr. Woody Isaacs, Site Design Solutions LLC, 313 N. Burdick Street, Kalamazoo MI was present to speak on behalf of Regional Medical Lab, stated also present was Jim Keefer, Project Architect , and Gary Rechert of RML; they were asking for the Zoning Boards consideration for the front parking and buffer. Stated they have always used this location and feel all issues have been addressed as best that they could with the lot size and design. Noted that on College Street the other properties have already encroached for parking and theirs would not be any different than the neighbors and that RML has unique requirements for couriers, visitors and patient vehicular traffic and that the shape and historical development of the parcel limits the options available for additional parking.

Mr. Deland Davis asked Mr. Isaacs roughly what would be the number of parking spaces they would have if approved and the number of spaces they would lose if they did not have the 30 ft. setback.

Mr. Isaacs stated they currently would have 90 for this project and would meet the minimum number required, that without the variance they could not meet the requirements and would be difficult for them to function and for visitors to get in and out etc.

Mr. James Moreno asked that in order to keep the buffer between the side-walk and parking, it looks like there is currently only 2 ft. according to the photos.

Mr. Isaacs stated that is the current condition, that the proposed site plan does have a buffer area on the south side between the proposed parking and sidewalk maybe 6 to 8 ft in width, which would be pulling the parking away from the current proximity.

Mr. Deland Davis stated he was not aware of the ordinance that requires a certain number of parking spaces. Mr. Buckley stated yes, the ordinance states every use has off street parking requirements.

Mr. Mike Fatt asked if they could give an estimate of the number of parking spaces for visitors vs. spaces for employees.

Mr. Isaacs stated he was not able to answer without going back and reviewing documents. Stated they had approximately 60 employees.

Mr. Fatt asked if there was other property they could purchase for parking. Mr. Isaacs stated no one is receptive or has any available to sell.

Mr. John Stetler asked if there were any others here to speak for or against this variance, seeing none he called this public hearing to a close and would entertain a motion.

MOTION: MR. JAMES MORENO MADE A MOTION TO APPROVE # Z-02-08 VARIANCE TO ALLOW USE OF THE FRONT-YARD SETBACK FOR PARKING AND TO ELIMINATE 10 FT. WIDE BUFFER AND SCREENING BETWEEN PARKING AND RESIDENTIAL USE TO THE WEST AS PRESENTED FOR PROPERTY LOCATED AT 175 COLLEGE STREET, SUPPORTED BY MR. DELAND DAVIS.

Discussion:

Mr. James Moreno stated because of the parking being so close to the sidewalk and the fact that the rear has been improved such that space can be removed and create that safety in the front zone, he would be inclined to support this particular request.

Mr. Mike Fatt stated he would be inclined to support as well as long as the applicant stipulated that it would in fact include that buffer and that the rear buffer cannot get any worse that it presently is.

MOTION AMENDMENT: MR. MIKE FATT MADE AN AMENDMENT TO THE MOTION TO INCLUDE THAT THE REAR BUFFER WALL CANNOT BE CHANGED, AND SHOULD BE LEFT AS IS; SUPPORTED BY MR. JAMES MORENO.

Mr. Deland Davis stated he understood that the buffer in the rear was on the residential property and not on Regional Medical Laboratories property. So he is not sure what control they would have regarding any changes.

Mr. Isaacs stated there is a retaining wall that runs most of the length of the property that sits directly on the property line based on their survey. There is a strip of land on the upper side adjacent to the west that appears to be about 10 ft. wide, where the nearby owner has erected a wood shadowbox fence up there as well, the retaining wall is on RML's property and the additional buffer area and fence is on the adjoining property.

MR. JOHN STETLER ASKED FOR ANY ADDITIONAL COMMENTS, BEING NONE A VOTE WAS TAKEN ON THE AMENDMENT; NONE OPPOSED; ALL IN FAVOR: MOTION APPROVED

MR. JOHN STETLER ASKED FOR ANY ADDITIONAL COMMENTS, BEING NONE A VOTE WAS TAKEN ON THE MOTION FOR THE VARIANCE; NONE OPPOSED; ALL IN FAVOR: MOTION APPROVED

APPROVAL OF MINUTES:

MOTION WAS MADE BY MR. JAMES MORENO TO APPROVE THE FEBRUARY 12, 2008 ZONING BOARD OF APPEALS MINUTES AS SUBMITTED, SUPPORTED BY MR. DELAND DAVIS. ALL IN FAVOR, NONE OPPOSED, MOTION CARRIED - APPROVED.

COMMENTS BY THE PUBLIC: None

COMMENTS BY THE MEMBERS / STAFF:

Mr. James Moreno stated regarding the petition that was before them in February regarding the three-unit apartment being denied, he was perplexed regarding the articles in the paper stating that it would need to be changed back into a single-family dwelling, which is not true. He asked staff if there is any thing that could be provided as a clarification.

Mr. Mike Buckley stated that as an update, the petitioner did exercise their right to an appeal to Circuit Court, so the filings have been made and the City has been preparing the responses to those filings and included was a clarification of the fact that it could remain as a two unit, that the repeated comment of the Zoning Board or City to force them to go back to a single unit was not correct. It has been corrected for the record, certainly for the court record. The hearing date has been postponed from April 14th and he was not sure of the new date. He stated it is important how this first case comes about as it could impact any future appeals to might come before the Zoning Board.

ADJOURNMENT: Mr. Deland Davis made a motion to adjourn the meeting, second by Mr. Gentry Hammons; all in favor. Meeting adjourned at 4:28 p.m.

Submitted by: Leona A. Parrish
Administrative Assistant, Planning Department

This document was created with Win2PDF available at <http://www.win2pdf.com>.
The unregistered version of Win2PDF is for evaluation or non-commercial use only.
This page will not be added after purchasing Win2PDF.